



## CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2022-0020]

### Electronic Filing of Certain Certificate of Compliance Data: Announcement of PGA

#### Message Set Test and Request for Participants

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The U.S. Consumer Product Safety Commission (Commission or CPSC), in consultation with U.S. Customs and Border Protection (CBP), announce their joint intent to conduct a second test (a Beta Pilot) to assess the electronic filing of data from a certificate of compliance (certificate) for regulated consumer products under CPSC's jurisdiction. This electronic filing will be done via the Partner Government Agency (PGA) Message Set, to the CBP-authorized Electronic Data Interchange system known as the Automated Commercial Environment (ACE). In this notice, CPSC seeks Beta Pilot test participants. CPSC is also collecting comments on burden estimates for a proposed collection of information related to the Beta Pilot test, as required by the Paperwork Reduction Act of 1995.

**DATES:** *Beta Pilot Test Participation:* Electronic requests to participate in the Beta Pilot test program and the Beta Pilot test IT project may be submitted on or before **[INSERT DATE THAT IS 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. However, CPSC will consider applications to participate until reaching the Beta Pilot test capacity of no more than 50 participants.<sup>1</sup> Additionally, CPSC will consider applications to volunteer for a Beta Pilot test IT project until the capacity of nine participants is filled. The Beta Pilot test will run until terminated by announcement in the *Federal Register*. CPSC intends to run the Beta

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<sup>1</sup> CPSC will select fewer participants than the 100 initially proposed by staff in the 2020 Commission-approved eFiling Plan, available at: <https://www.cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf>. Staff has determined, based on research on user-experience testing, that fewer participants of varying importer size are sufficient to test system capacity and to provide information to the Commission to implement a permanent eFiling requirement.

Pilot test for at least 6 months. CPSC asks that each Beta Pilot test participant electronically file CPSC PGA Message Set certificate data, as described here, for at least 6 months. Participants may have staggered start dates, to accommodate onboarding all participants.

*Paperwork Reduction Act:* Submit comments on the proposed collection of information by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** using the methods described below in the ADDRESSES section of this preamble.

**ADDRESSES:** *Beta Pilot Test Participation:* Requests to participate in the Beta Pilot test and technical comments on CPSC’s supplemental Customs and Trade Automated Interface Requirements (CATAIR) guideline (which will be made available on CBP.gov) should be submitted through electronic mail to: [efilingpilot@cpsc.gov](mailto:efilingpilot@cpsc.gov). Requests to participate in the Beta Pilot test should contain the subject heading: “Beta Pilot: Application to participate in PGA Message Set Test.” If you are also willing to volunteer to participate in the Beta Pilot test IT development project, described here, please indicate this in the application to participate in the Beta Pilot test. Technical comments on CPSC’s supplemental CATAIR guideline should contain the subject heading: “Beta Pilot CATAIR Technical Comments.”

*Paperwork Reduction Act:* You may submit comments, identified by Docket No. CPSC-2022-0020, by any of the following methods:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (e-mail), except through <https://www.regulations.gov>. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

*Mail/hand delivery/courier Written Submissions:* Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. Alternatively, as a

temporary option during the COVID-19 pandemic, you can email such submissions to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

*Docket:* For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2022-0020, into the “Search” box, and follow the prompts. A copy of the “Supporting Statement” for this burden estimate is available at: <https://www.regulations.gov> under Docket No. CPSC-2022-0020, Supporting and Related Material.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the Beta Pilot test, participation in the test, and the proposed collection of information should be directed to Arthur Laciak, eFiling Program Specialist, Office of Import Surveillance, U.S. Consumer Product Safety Commission, (301) 504-7516, [efilingpilot@cpsc.gov](mailto:efilingpilot@cpsc.gov). Questions sent by electronic mail should contain the subject heading: “Beta Pilot: Question re PGA Message Set Test.” For technical questions regarding ACE or Automated Broker Interface (ABI) transmissions, or the PGA message set data transmission, please contact your assigned CBP client representative. Interested parties without an assigned client representative should submit an email to Steven Zaccaro at: [steven.j.zaccaro@cbp.dhs.gov](mailto:steven.j.zaccaro@cbp.dhs.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

*A. Beta Pilot Test Purpose and Goal<sup>2</sup>*

Preventing products that are not in compliance with safety requirements from reaching American homes was a primary impetus for passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA) and remains a high priority of the CPSC. To improve the safety of imported consumer products, Congress mandated in the CPSIA that CPSC improve the targeting of violative imported products and enforcement of safety requirements, including by creating a Risk Assessment Methodology (RAM) and allowing CPSC to collect certificate data electronically up to 24 hours before arrival of an imported product. In furtherance of this mandate, in 2016, CPSC and CBP conducted a successful initial PGA Message Set test (the Alpha Pilot test)<sup>3</sup> to collect certain targeting/enforcement data from a certificate that CPSC collected and placed into CPSC's RAM system at the time of entry filing, or entry summary filing, if both entry and entry summary were filed together.

The Alpha Pilot test was a 6-month joint initiative between CPSC and CBP that assessed the infrastructure and processes necessary for electronic filing (eFiling) of data, and successfully demonstrated the ability of eight U.S. importers, their customs brokers, CBP, and CPSC to work together to gather and electronically file these data at import. The Alpha Pilot test was small, having eight volunteer importer participants and involving several consumer products classified within a limited set of Harmonized Tariff Schedule (HTS) codes. The purpose of the Alpha Pilot was to test the trade's ability to use a Product Registry and submit certificate data through ABI, CBP's ability to collect and transfer PGA Message Set data to CPSC, and CPSC's ability to receive the data into the RAM. Because of the limited number of participants and eligible HTS codes, it was not feasible for CPSC to create algorithms to detect noncompliant products, or to develop the necessary internal enforcement procedures and processes for a permanent program.

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<sup>2</sup> On June 1, 2022, the Commission voted 4-0 to issue this notice.

<sup>3</sup>[https://www.cpsc.gov/s3fs-public/eFiling\\_Alpha\\_Pilot\\_Evaluation\\_Report-May\\_24\\_2017.pdf?uK.UhjHabKD5yJQ.lw06tudrnvuuWIra](https://www.cpsc.gov/s3fs-public/eFiling_Alpha_Pilot_Evaluation_Report-May_24_2017.pdf?uK.UhjHabKD5yJQ.lw06tudrnvuuWIra), published April 2017.

However, the Alpha Pilot test successfully demonstrated CPSC’s ability to collect and use certificate data at the ports for enforcement purposes.

To advance the Commission’s consumer safety mission, on December 18, 2020, the Commission approved staff’s recommended plan to implement a permanent eFiling program at CPSC. In anticipation of a rulemaking to implement a permanent eFiling requirement for regulated consumer products, CBP and CPSC will conduct a Beta Pilot test, using certificate data provided through a PGA Message Set. The purpose of the Beta Pilot test is to build upon the Alpha Pilot test, develop and test the IT infrastructure necessary to support a full-scale eFiling requirement, inform CPSC’s potential rulemaking, and develop internal procedures to support enforcement. The Beta Pilot test also will advance the concept of a “single window” to facilitate electronic collection, processing, sharing, and reviewing of trade data and documents required by CPSC during the cargo import process, and will assist CPSC to target imports more accurately to facilitate the flow of legitimate trade and enhance targeting of noncompliant trade.

The Beta Pilot test also will assess CPSC and importer capabilities for electronically filing certificate data elements via the PGA Message Set and incorporating the data elements into CPSC’s RAM to risk score and interdict noncompliant products. The Beta Pilot test will include more participants than the Alpha Pilot test (up to 50), add two additional data elements, and involve more varied consumer products under CPSC’s jurisdiction, products classified under approximately 300 HTS codes.<sup>4</sup> Compared with the Alpha Pilot test, the Beta Pilot test will increase the number of test participants and entry lines, allowing CPSC to develop, test, and implement processes and procedures for an eFiling requirement for all imported, regulated consumer products. CPSC plans to use the results from the Beta Pilot test to scale up IT systems

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<sup>4</sup> The products classified under the approximately 300 HTS codes that participants should expect to be tested in the Beta Pilot, include, but are not limited to: ATVs; durable infant or toddler products, such as baby carriages, cribs, and safety gates; children’s furniture, backpacks, and school supplies; bicycle helmets; bicycles and other electric-powered cycles; clothing (sleepwear, outerwear, infant articles, potentially flammable adult clothing articles); drywall; fireworks; children’s jewelry; lighters; liquid nicotine; mattresses; pacifiers and rattles; rugs; and toys. CPSC intends to flag the approximately 300 HTS codes that may require filing certificate data during the Beta Pilot test.

to accept data for regulated consumer products; refine the required infrastructure for the real-time collection and use of data; develop internal and external procedures to supply, use, and maintain certificate data; and inform rulemaking that will require and make permanent eFiling certificate data.

Accordingly, CPSC anticipates that Beta Pilot test participants will help to develop, inform, and shape the permanent eFiling requirement for certificate data. CPSC seeks up to 50 importers of consumer products to participate in the Beta Pilot test, and a subset of up to nine Beta Pilot test participants to advise CPSC during the technology development (IT) phase of the project (Beta Pilot test IT volunteers), before the Beta Pilot test begins.

*B. Background: CPSC's eFiling Initiative*

CPSC's eFiling initiative began in or around 2013, when the Commission issued a notice of proposed rulemaking (NPR) to update certificate requirements in 16 CFR part 1110 and to implement electronic filing of certificates under section 14(g)(4) of the CPSA. 78 FR 28080 (May 14, 2013). The NPR proposed that importers of regulated consumer products be required to file certificates electronically with CBP at the time of entry filing, or at the time of entry summary filing, if both entry and entry summary are filed together. 78 FR at 28089, 28108. The Commission explained in the preamble to the 2013 NPR that the proposal would require data from a certificate to be filed electronically with CBP, and then transferred to CPSC's systems, to assist CPSC in enforcing the certificate requirement, and for use in targeting to identify potentially violative consumer products.

Since the 2013 NPR, CPSC staff engaged public and industry stakeholders regarding eFiling, including participating in work groups and meetings, developing and conducting an eFiling Alpha Pilot test, and completing a certificate study.<sup>5</sup> CPSC's eFiling initiatives, to date,

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<sup>5</sup> Since 2014, CPSC staff has engaged the public on CPSC's eFiling initiative many times, including: a public workshop on electronic filing of certificates, as included in proposed rule on Certificates of Compliance – September 18, 2014; webinars and meetings with CBP's Commercial Customs Operations Advisory Committee (COAC) Working Group – March 12, 2015, March 26, 2015, April 9, 2015, and May 13, 2015; Chairman Kaye

suggest strong grounds for establishing a permanent eFiling program at CPSC. More than 12 years after the Commission first required certificates at import in 2009, staff continues to see a significant number of certificate violations with imported products. Data show that the lack of a timely certificate is a strong predictor of substantive violations in imported consumer products. Moreover, specific data on a certificate are associated with noncompliance.

After the Alpha Pilot test, in 2017 and 2018, CPSC staff also completed a Certificate of Compliance Study<sup>6</sup> to assess the correlation between the timing and availability of a certificate, as well as the specific data on a certificate, with finished product compliance. Staff found that a shipment was five times more likely to have a violation if a certificate was never provided to CPSC, and three times more likely to have a violation if a certificate was provided, but not within 24 hours of CPSC's request. The Certificate Study also identified which certificate data elements are most valuable for import targeting.

Building on the Alpha Pilot test and the Certificate Study, a Beta Pilot test will enable CPSC to develop RAM algorithms to triage the enormous amount of import data received from CBP to detect more effectively noncompliant consumer products arriving at ports of entry. The ability to use data and improved technology to detect noncompliant products is vital to focus CPSC's limited resources on effectively protecting consumers from noncompliant and hazardous consumer products. To that end, on September 23, 2020, CPSC staff submitted a briefing package titled, CPSC Plan to Create an eFiling Program for Imported Consumer Products (2020 eFiling Plan),<sup>7</sup> for Commission consideration. Staff explained that currently, import staff

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Meeting with Members of the COAC IUSG Subcommittee-CPSC Working Group – April 28, 2015; webinar with the Border Interagency Executive Council (BIEC) – September 16, 2015; working meetings with the Trade Support Network (TSN) – September 16, 2015 and September 23, 2016; webinars to demonstrate the eFiling Product Registry – October 1, 2015 and February 25, 2016; kickoff meeting with eFiling Alpha Pilot participants – November 18, 2015; adult wearing apparel webinar on Enforcement Discretion Regarding GCCs for Adult Wearing Apparel Exempt from Testing with eFiling Alpha Pilot Participants – April 13, 2016; broker feedback meeting on eFiling with Bureau Veritas – August 4, 2016; public meeting for review and feedback on the eFiling Alpha Pilot with participants – January 26, 2017.

<sup>6</sup> <https://www.cpsc.gov/s3fs-public/eFiling-Certificate-Study-Evaluation-Report-FINAL.pdf?dP0Vwp55DJO.iSQIBsPqTg07umCLlckr>, published August 2018.

<sup>7</sup> <https://cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf?BYXOLX2gJmF4NaAN1LCMmqiXRISuaRkr>, published December 2020.

requests certificates once a shipment has already been stopped for physical examination; and thus, staff cannot use the lack of a certificate, or certificate data, for targeting stops. Based on 12 years of experience enforcing certificate requirements, testing, and study, CPSC staff concluded that an eFiling program is critical to the agency's ability to intercept noncompliant imported consumer products. Staff concluded that electronically collecting certificate data at the time of import can enhance identification of high-risk products, improve risk assessment, and facilitate legitimate trade.

Staff's 2020 eFiling Plan recommended a multiyear, four-phased approach: (1) create and fund an eFiling program, (2) conduct an eFiling Beta Pilot test, (3) initiate rulemaking, and (4) dedicate ongoing resources. As described in section I.A, the Alpha Pilot test successfully demonstrated CPSC's ability to collect data for targeting into the RAM at the time of entry but involved only eight participants and limited HTS codes. The small Alpha Pilot test did not assess a full-scale system capacity, develop and test algorithms to detect noncompliant consumer products, or develop internal enforcement procedures. Accordingly, staff's plan proposed a Beta Pilot test before the permanent rollout of an eFiling program. The Beta Pilot test would include approximately 300 HTS codes prioritized for import, all certificate fields with potential risk-targeting value, and the option for importers to use a Product Registry (as provided in the Alpha Pilot test). The Beta Pilot test would test eFiling on a larger scale, to allow CPSC staff to assess and develop IT infrastructure, refine importer data entry content and methods, develop and optimize RAM algorithms, and develop CPSC internal processes and procedures for use in enforcement programs.

On December 18, 2020, the Commission voted 4-0 to implement staff's recommended eFiling program as set forth in the 2020 eFiling Plan. Thus, the Commission approved the Beta Pilot test described in this notice, as well as staff's rulemaking efforts to make the eFiling program permanent.



### *C. The Automated Commercial Environment*

CPSC will conduct the Beta Pilot test in coordination with CBP, using CBP's Automated Commercial Environment (ACE) system. ACE is CBP's automated electronic system through which it collects importation and entry data, streamlining business processes and ensuring cargo security and compliance with U.S. laws and regulations. CBP has developed ACE as the "single window" for the trade community to comply with the International Trade Data System (ITDS) requirement established by the SAFE Port Act of 2006. For trade filers to submit data to ACE, it requires the use of an electronic data interchange system (EDI). One such system is the Automated Broker Interface (ABI) is a software interface to ACE. Commercial trade participants, or their licensed customs brokers acting on their behalf, can file entries in ACE using ABI to electronically file required import data with CBP. ABI transfers trade-submitted data into ACE. A PGA Message Set allows the trade to enter agency-specific data in one location, through ABI, and for PGAs to receive this additional trade-related data along with entry data.

## **II. Beta Pilot Test: Certificate Data**

Like the Alpha Pilot test, the Beta Pilot test will allow two different methods of filing certificate data using the PGA Message Set: (1) filing a minimum of seven data elements (Full PGA Message Set), or (2) filing only a reference to certificate data stored in a Product Registry maintained by CPSC (Reference PGA Message Set). Participants will submit certificate data for regulated finished products, either as the Full PGA Message Set or the Reference PGA Message Set, in ACE at the time of entry filing or entry summary filing if both entry and entry summary are filed together. CBP will then make available to CPSC the PGA Message Set data and its corresponding entry data, for CPSC's validation, risk assessment, and admissibility determinations at entry, thereby facilitating compliant trade as well as sharpening CPSC focus on noncompliant trade. CPSC will use the data to review consumer product entry requirements and allow for earlier risk-based admissibility decisions by CPSC staff. Additionally, because it is

electronic, the PGA Message Set may eliminate the necessity for submission and subsequent handling of paper documents. Piloting electronic filing to transition away from paper-based filing is a priority initiative of the PGAs to meet the stated “single window” implementation timeline.

*A. PGA Message Set*

To file data electronically with CBP, participants will file information required for eligible consumer products in CBP’s ACE system. The proposed PGA Message Set test will evaluate, at the minimum, the electronic filing of CPSC’s seven certificate data elements listed below for regulated consumer products:

1. Identification of the finished product (may use reference to GTIN<sup>8</sup> data for this element);
2. Each consumer product safety rule to which the finished product has been certified;
3. Date when the finished product was manufactured;
4. Place where the finished product was manufactured, produced, or assembled, including the identity and address of the manufacturing party;
5. Date when the finished product was most recently tested for compliance with the consumer product safety rule cited above;
6. Parties on whose testing a certificate depends (meaning the name and contact information for the entity that conducted the testing); and
7. A check box indicating that a required certificate currently exists for the finished product, as required by Sections 14 and 17 of the CPSA.

These seven data elements from a certificate include all of the data elements tested in the Alpha Pilot, as well as two additional date fields, manufacture date and test date, which were not tested in the Alpha Pilot. Staff considers all seven data elements useful to improve the targeting of potentially violative products. Both individually and considered together, these data elements

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<sup>8</sup> GTIN stands for Global Trade Item Number and is managed by Global Standards 1 (GS1).

allow CPSC staff to create a unique set of rules in the RAM that can increase or decrease risk scores. Including, at the minimum, all seven data elements creates the most robust measures by which staff can interdict noncompliant products and also identify the lowest-risk importers and compliant products.<sup>9</sup>

CPSC is drafting a supplemental CATAIR guideline on filing certificate data through the PGA Message Set that describes the technical specifications for filing during the Beta Pilot test, as well as the Product Registry and Reference PGA Message Set (described in section II.B below). The supplemental CATAIR guideline will be made available before the initiation of the Beta Pilot test and will be posted on <http://www.cbp.gov/trade/ace/catair>. Technical comments on CPSC's supplemental CATAIR guideline should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

*B. CPSC Product Registry and Reference PGA Message Set*

The Product Registry concept arose out of discussions at CPSC staff's 2014 eFiling workshop and CPSC successfully tested this concept during the 2016 Alpha Pilot test. Other agencies have existing databases that can be referenced during the CBP entry process without having to re-enter repeatedly large amounts of data into ACE. Importers expressed concern about added costs and time to enter data for each regulated finished product with their entry, and the need for accurate data entry. Customs brokers also expressed concern about lack of access to the required data elements. For example, express carriers were concerned about meeting entry requirements during off-hour times when business personnel were unavailable for consultation. Stakeholders expressed concern that any requirement to re-enter large amounts of data, or lack of access to the required data, may slow the import process.

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<sup>9</sup> Two data elements required on a certificate that were not included in the Alpha Pilot test, the certifier and contact information, are also not included in the Beta Pilot test. These fields are duplicative because the certifier will always be the importer, and the name of the importer and the importer's (or broker's) contact information are already received from CBP on an entry form. Similarly, the Beta Pilot test will not include the place where a product is tested, because this information is already included in the name and contact information for a laboratory, information that is required in field 6.

After considering stakeholder comments and concerns, CPSC included a Product Registry as one of two filing options in the Alpha Pilot test to inform the Commission whether this concept alleviates some of the concerns expressed at the 2014 eFiling workshop. CPSC received positive feedback during the Alpha Pilot test regarding the Product Registry reducing burden for participants. Instead of filing a Full PGA Message Set for certificate data in ACE with entry each time a product was imported, participants can pre-file information into a Product Registry, maintained by CPSC, before filing an entry with CBP and reference this certificate data each time the product was imported thereafter, reducing data entry time and potential errors. Similarly, Beta Pilot test participants will be able to use the Product Registry to enter certificate data and to manage those data, and importers with established databases or processes can provide information for many products electronically in a batch upload into the Product Registry.

Once certificate data are filed in the Product Registry, filers will only need to provide a reference, or identifier, to the data using the PGA Message Set during the entry process, rather than entering all data multiple times for repeated importations of the same product. Participants who choose to use the Product Registry will need to provide their broker only with an identifier, and they will not need to provide all data elements for each product being imported. Based on the Alpha Pilot test experience, using the Product Registry should minimize data entry; reduce costs and filing time; and allow firms to manage, update, and re-use certificate data in the registry. The additional testing of the Product Registry should allow importers and CPSC to test the capacity of the Product Registry on a larger scale, including the ability to batch upload larger amounts of product data, a feature not tested in the Alpha Pilot test, as well as the entry and maintenance of two date fields. As in the Alpha Pilot test, use of the Product Registry in the Beta Pilot test will be voluntary.

### **III. Beta Pilot Test Participant Eligibility, Selection Criteria, and Responsibilities**

This document announces CPSC's plan, in consultation with CBP, to conduct a Beta Pilot test for the electronic filing of certificate data with CBP for regulated consumer products

within CPSC's jurisdiction that are imported into the United States. Beta Pilot test participants will work with CPSC and CBP to refine electronic filing of data through the PGA Message Set, by filing all data elements in the PGA Message Set, or by using the Product Registry, and filing a reference to certificate data through PGA Message Set. CBP and CPSC are seeking small, medium, and large U.S.-based importers with an assortment of products under CPSC jurisdiction to participate in the Beta Pilot test.

To be eligible to apply as a test participant, the applicant must:

- Import regulated consumer products within the Commission's jurisdiction;
- File consumption entries and entry summaries in ACE, or have a broker who files in ACE;
- Use a software program that has completed ACE certification testing for the PGA Message Set;
- Be willing to participate in the Trade Support Network (TSN);
- Provide oral and written feedback on all aspects of the Beta Pilot test as requested by CPSC, including information on costs to build to the requirements and time necessary to file certificate data; and
- Work with CPSC and CBP to test electronic filing of data using ABI to file through the Message Set, or references to certificate data in the Product Registry.

Because the feedback on the Beta Pilot test will be used to inform a rulemaking related to eFiling certificate data, participant feedback will be publicly available.

CPSC, in consultation with CBP, will select approximately 30-50 participants based on the eligibility requirements, application date, the number and type of consumer products imported, how applicants would file certificate data (Full PGA Message Set or Reference PGA Message Set), and the goal of having a diverse cross section of the trade community participate. The number and selection of participants will be at the discretion of CPSC and CBP, to meet the information requirements of the Beta Pilot test. Additionally, CPSC and CBP seek a subset of

Beta Pilot test participants, not to exceed nine, to advise CPSC and CBP earlier in the project, during the IT development portion of the Beta Pilot test.

CPSC anticipates that the benefits of participation in the Beta Pilot test may include, but will not necessarily be limited to:

- Opportunity to work directly with CBP and CPSC in the pre-implementation stage of the requirement to file certificate data;
- Ability to provide feedback and experience that will inform the ultimate e-Filing requirements; and
- Ability to trouble-shoot systems and procedures.

#### **IV. Application Process**

Any party seeking to participate in the test should email their company name, contact information, importer of record number(s), filer code, and an explanation of how they satisfy the requirements for participation to the address listed at the beginning of this notice on or before **[INSERT DATE THAT IS 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. However, CPSC will consider applications to participate until reaching the Beta Pilot test capacity of 50 participants. Applicants interested in advising CPSC and CBP during the IT development portion of the Beta Pilot test should specify their interest in the email. Applicants may be contacted directly for additional information in connection with the selection process. Selected Beta Pilot test participants will be notified by email. Selected Beta Pilot test participants may have different starting dates. A firm providing incomplete information, or otherwise not meeting the participation requirements, will be notified by email and given the opportunity to resubmit the application. Applicants who are not selected also will be notified by email.

#### **V. Test Duration**

Upon selection into the Beta Pilot test, test participants will be expected to begin work promptly, when requested, to assist CBP and CPSC to define and refine requirements. The

eFiling portion of the Beta Pilot test is expected to begin in October 2023, but participants will begin planning for participation, including data requirement discussions with CPSC and IT development, much earlier, in fall 2022. When the test begins, Beta Pilot test participants will spend the first several weeks of the Pilot onboarding. Once onboarding is complete for all test participants, the Beta Pilot test is expected to run for at least 6 months, and will run until terminated by announcement in the *Federal Register*.<sup>10</sup> Participants advising CPSC and CBP during the IT development will have the opportunity to onboard and test filing via the Full PGA Message Set and the Product Registry and Reference PGA Message Set before October 2023.

## **VI. Legal Authority**

### *A. ITDS Goals and CBP's Authority to Conduct National Customs Automation Program Tests*

The ITDS is an electronic data interchange system whose goals include eliminating redundant information requirements, efficiently regulating the flow of commerce, and effectively enforcing laws and regulations relating to international trade by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by participating federal agencies. All federal agencies that require documentation for clearance or licensing the importation of cargo are required to participate in the ITDS. The Customs Modernization provisions in the North American Free Trade Agreement Implementation Act provide the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the National Customs Automation Program (NCAP), which includes ACE. The Beta Pilot PGA Message Set test

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<sup>10</sup> The duration of the Beta Pilot test could be shorter than the 1 year approved in the 2020 eFiling Plan. Staff determined that a duration of 6 months may be sufficient to complete anticipated test metrics. Accordingly, the Beta Pilot test will run for at least 6 months until the test is completed via a *Federal Register* notice of termination.

described in this notice is in furtherance of the ITDS and NCAP goals.

*B. CPSC and CBP Authority to Regulate the Importation of Consumer Products*

Certificates are required to accompany shipments of regulated consumer products.

Section 14(a) of the Consumer Product Safety Act (CPSA), as amended by section 102(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law No. 110-314, requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate of compliance (certificate) certifying such products as compliant with applicable laws and regulations before importation.<sup>11</sup> 15 U.S.C. 2063(a). Although section 14(g)(4) of the CPSA authorizes the Commission, in consultation with CBP, to require, by rule, electronic filing of certificates up to 24 hours before arrival of an imported consumer product, the Commission has not yet implemented this authority. To implement section 14(g)(4) of the CPSA, CPSC will conduct the Beta Pilot test and begin rulemaking to make permanent electronic filing of certificates at the time of entry filing, or at the time of entry summary filing, if both entry and entry summary are filed together.

In addition to its section 14 authority, the Commission has admissibility authority for imported consumer products and substances that are within the CPSC's jurisdiction under section 17 of the CPSA (15 U.S.C. 2066) and section 14 of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1273). Unless the Commission allows a product to be reconditioned for importation, section 17(a) of the CPSA requires refusal of admission and destruction of any product offered for import that, among other things, is not accompanied by a certificate required under section 14 of the CPSA, or is a product which is in violation of the inspection and recordkeeping requirements of section 16.

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<sup>11</sup> On November 18, 2008, pursuant to section 14(a) of the CPSA, the Commission promulgated a final rule on "certificates of compliance" (73 FR 68328), which is codified at 16 CFR part 1110 (part 1110). The rule restates the statutory certificate requirements, limits the parties who must issue a certificate to the importer, for products manufactured outside the United States, and, in the case of domestically manufactured products, to the manufacturer, and allows certificates to be in hard copy or electronic form.



CPSC's authority to regulate the importation of consumer products is further derived from section 17(h)(1), which requires the Commission to "establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this Act and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States." 15 U.S.C. 2066(h)(1). Also, under section 222 of the CPSIA, the CPSC is required to develop a risk assessment methodology (RAM) for the identification of shipments of consumer products that are intended for import into the United States and are likely to violate consumer product safety statutes and regulations. An eFiling requirement to enhance targeting of noncompliant consumer products is consistent with the federal government's movement to the "single window."

Building on these authorities, CPSC works with CBP to review and inspect cargo and to clear compliant consumer products for importation into the United States. CPSC also works with CBP to enforce CPSC regulations and to destroy products that violate the law and cannot be reconditioned for importation. 15 U.S.C. 2066. CBP has the authority to seize and destroy products offered for importation under the Tariff Act, codified at 19 U.S.C. 1595a(c)(2)(A), where the importation or entry of such products is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and such products are not in compliance with the applicable rule, regulation, or statute. An admissibility determination may be deferred to allow an importer to recondition products for entry. 15 U.S.C. 2066(c). CPSC and CBP have authority to supervise the reconditioning of products for entry that are still under CBP's bond. 15 U.S.C. 2066(d). If these products cannot be reconditioned, they must be refused admission and destroyed, unless the Secretary of the Treasury permits export in lieu of destruction. 15 U.S.C. 2066(d) & (e).

Finally, the Commission has authority to implement requirements in the CPSIA and any amendments to the CPSA made by the CPSIA, including certificate requirements and

implementing a RAM system, pursuant to section 3 of the CPSIA, which provides: “[t]he Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.” Taken together, these authorities give CPSC a broad ability to monitor all consumer products within its jurisdiction at the ports, and to issue implementing regulations in furtherance of the agency’s mission to protect consumers from unreasonably dangerous consumer products. Insights gained through this Best Pilot test will inform the infrastructure, processes, procedures, and rulemaking to implement a permanent eFiling program at CPSC.

## **VII. Paperwork Reduction Act**

The Beta Pilot test contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

*Title:* Beta Pilot Test for eFiling Certificates of Compliance

*Description:* During the Beta Pilot test of CBP’s PGA Message Set abilities through ACE, up to 50 participating importers of regulated consumer products will electronically file the requested certificate data, comprised of 7 data elements, at the time of entry filing, or entry summary filing, if both entry and entry summary are filed together. Participants will have two ways to file certificate data during the Beta Pilot test: (1) filing certificate data in a CPSC-

maintained Product Registry, and filing a reference number in ACE to this data set, through ABI, each time the product is imported thereafter (Reference PGA Message Set), or (2) filing all certificate data elements directly through ABI each time the product is imported (Full PGA Message Set). CPSC will receive the information from CBP through a real-time transfer of import data, and risk score the information in CPSC's Risk Assessment Methodology (RAM) system, to assist in the interdiction of noncompliant consumer products.

As set forth in section VI.B of this preamble, the requirement to create and maintain certificates, including the data elements, is set forth in section 14 of the Consumer Product Safety Act (CPSA). Section 14(a) of the CPSA requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate certifying such products as compliant with applicable laws and regulations before importation. 15 U.S.C. 2063(a). Section 14(g)(1) of the CPSA describes the data required on a certificate. Section 14(g)(3) requires a certificate to accompany the applicable product or shipment of products covered by the certificate, and that certifiers furnish the certificate to each distributor or retailer of the product. Upon request, certificates must also be furnished to CPSC and CBP. Section 14(g)(4) provides that “[i]n consultation with the Commissioner of Customs, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product.” The Beta Pilot test described in this collection of information is in preparation for a rulemaking to implement section 14(g)(4) of the CPSA. 15 U.S.C. 2063(g)(4).

Because certificates are required by statute, this analysis focuses on the burden for CPSC to accept, and importers to provide, certificate data elements electronically at the time of entry filing, and not to collect and maintain certificate data more generally. Importer requirements in the Beta Pilot test for providing certificate data electronically at the time of entry filing fall within the definition of “collection of information,” as defined in 44 U.S.C. 3502(3).

*Description of Respondents:* Up to 50 importer participants who import regulated consumer products within CPSC's jurisdiction under the approximately 300 HTS codes included in the Beta Pilot test.

*Estimated Burden:* We estimate the burden of this collection of information as follows:

CPSC used information provided by Alpha Pilot test participants to inform the estimated burden for the Beta Pilot test. The burden from participating in the eFiling Beta Pilot test can be broken down into the burden of preparing for participation in the Pilot, the burden of maintaining the data elements separately, and, as compared to the Alpha Pilot test, the additional burden of including the dates of manufacturing and lab testing. Based on feedback from the Alpha Pilot test participants, we also assume that if we have 50 Beta Pilot test participants, many more participants (90%), approximately 45 respondents, will opt to exclusively use the Product Registry and Reference PGA Message Set, while 5 participants will opt to exclusively use the Full PGA Message Set.

For the 45 participants opting to exclusively use the Product Registry, we estimate that there will be approximately 8,764 burden hours to complete the information collection burden associated with Beta Pilot test participation, and maintain the data elements, including the dates of manufacturing and lab testing. Based on feedback from Alpha Pilot test participants, participant staff costs for this burden will be about \$383,000 or approximately \$44 per hour (\$382,990/8,764).

**Table 1 – Beta Pilot Test Burden Estimates  
Product Registry and Reference PGA Message Set**

<b>Product Registry Only</b>	<b>A</b>	<b>B</b>	<b>C (=AxB)</b>	<b>D</b>	<b>E (=CxD)</b>	<b>F</b>	<b>G (=CxF)</b>
Type of Respondent	#. of Respondents	#. of Responses per Respondent	# of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Cost per Response	Total Annual Respondent Cost
Pilot Participation	45	1	45	91	4,095	\$4,929	\$221,805
Gathering and Submitting Data Elements	45	1	45	27	1,195	\$946	\$42,579
Survey	45	1	45	2.2	99	\$34.68	\$1,561
Filing Entry-Line	45	25,000	1,125,000	0.003	3,375	\$0.10	\$117,045
<b>Total</b>			1,125,135		8,764		\$382,990

Assumptions:

Appx. 10% of the 50 respondents will elect to use only the Full PGA message set.

Estimated response costs based on costs information from Alpha Pilot test participants.

Wage data for survey and filing entry-line data comes from U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” September 2021, Table 4, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>).

For the 5 participants opting to use the Full PGA Message Set, we estimate 452 hours to complete the pilot and maintain the data elements, including the dates of manufacture and lab testing per product. The estimated associated participant staff costs will be about \$21,800, or approximately \$48 per hour (\$21,774/452 hours).

**Table 2 – Beta Pilot Test Burden Estimates  
Full PGA Message Set**

<b>Full PGA Message set Only</b>	A	B	C (=AxB)	D	E (=CxD)	F	G (=CxF)
Type of Respondent	#. of Respondents	#. of Responses per Respondent	# of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Cost per Response	Total Annual Respondent Cost
Pilot Participation	5	1	5	30	150	\$2,245	\$11,225
Gathering and Submitting Data Elements	5	1	5	13	66	\$515	\$2,573
Survey	5	1	5	2.2	11	\$34.68	\$173
Filing Entry-Line	5	1,500	7,500	0.030	225	\$1.04	\$7,803
<b>Total</b>			7,515		452		\$21,774

Assumptions:

Appx. 10% of the 50 respondents will elect to use the Full PGA message set.

Estimated response cost for based on cost information from the Alpha Pilot test participants.

Wage data for survey and filing entry-line data comes from U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” September 2021, Table 4, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>).

The estimated total burden for participation in the Beta Pilot test is 9,217 hours, with an estimated cost of \$404,800, or \$44 per hour (\$404,764/9,217).

**Table 3 – Total Estimated Burden or Beta Pilot Test**

<b>Total Burden</b>	A	B	C (=AxB)	D	E (=CxD)	F	G (=CxF)
Type of Respondent	#. of Respondents	#. of Responses per Respondent	# of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Cost per Response	Total Annual Respondent Cost
Pilot Participation	50	1	50	85	4,245	\$4,661	\$233,030
Gathering and Submitting Data Elements	50	1	50	25	1,262	\$903	\$45,152
Survey	50	1	50	2	110	\$35	\$1,734
Filing Entry-Line	50	22,650	1,132,500	0.003	3,600	\$0.11	\$124,848
<b>Total</b>			1,132,650		9,217		\$404,764

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements to the OMB for review. Pursuant to 44 U.S.C. 3506(c)(2)(A), we request comment on this burden estimate and the analysis, including:

- whether the collection of information is necessary for the proper performance of the CPSC's functions, including whether the information will have practical utility;
- the accuracy of the CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected; and
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

### **VIII. Confidentiality**

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CPSC or CBP in accordance with 5 U.S.C. 552.

**Alberta E. Mills,**

*Secretary,*

*Consumer Product Safety Commission.*

[FR Doc. 2022-12477 Filed: 6/9/2022 8:45 am; Publication Date: 6/10/2022]